

**Before the
Federal Communications Commission
Washington, D.C. 20554**

In the Matter of)	
)	
CITY OF MCDONOUGH)	File No. 0006111414
)	
Application for a New Station in the Private)	
Operational Fixed Point-to-Point Microwave)	
Service (Multiple Address System))	
)	
Request for Waiver of Section 101.147(b) of the)	
Commission's rules)	
)	

MEMORANDUM OPINION AND ORDER

Adopted: September 25, 2014

Released: September 26, 2014

By the Deputy Chief, Broadband Division, Wireless Telecommunications Bureau:

I. INTRODUCTION

1. In this *Memorandum Opinion and Order*, we grant a request for waiver filed by the City of McDonough, Georgia ("McDonough" or "City") for a waiver of section 101.147(b) of the Commission's rules to allow licensing and operation of a one-way Multiple Address System ("MAS") on a frequency that is normally reserved for paired use.

II. BACKGROUND

2. MAS frequencies are available for point-to-multipoint and point-to-point transmission of a licensee's products or services, excluding video entertainment material, to the licensee's customers or for its own internal communications.¹ The MAS bands are divided into two groups with differing licensing and service characteristics. The relevant group² for this case, commonly known as the 928/952/956 MHz bands, include sixty-eight 12.5-kilohertz (kHz) channel pairs (25 kHz total per pair) in the 928-928.85 and 952-952.85 MHz bands (a total of 850 kilohertz in the 952-960 MHz band), and sixteen unpaired 12.5-kHz channels in the 956.25-956.45 MHz band (200 kHz total).³ These bands are reserved for "private internal services," which are defined as those where licensees use their authorized frequencies purely for internal business purposes or public safety communications, and not for any for-hire (for-profit) or non-profit cost-shared application.⁴ The Commission awards licenses to these bands on a first-come, first-

¹ 47 C.F.R. § 101.147(b).

² The second group of MAS bands, commonly known as the 928/959 MHz bands, consists of twelve 12.5 kHz channel pairs (25 kHz total per pair) in the 928.85-929 and 959.85-960 MHz bands (300 kHz total). See Amendment of the Commission's Rules Regarding Multiple Access Systems, WT Docket No. 97-81, *Report and Order*, 15 FCC Rcd 11956, 11959 n.1 (2000) ("*MAS Report and Order*"). We license these bands on a geographic area basis through a system of competitive bidding for use by for-profit CMRS and paging network incumbents. See *MAS Report and Order*, 15 FCC Rcd at 11974 ¶ 47.

³ See *MAS Report and Order*, 15 FCC Rcd at 11959 n.1.

⁴ See *MAS Report and Order*, 15 FCC Rcd at 11965 ¶ 20, 11966 ¶ 22.

served, site-by-site basis.⁵ The Commission has issued approximately 10,000 site-based MAS licenses in these bands.⁶

3. Most of the available channels 928/952/956 MHz bands are paired frequencies that are allocated for two-way communications between a master station and remote stations, with one-way communications on paired frequencies permitted only on an ancillary or case-by-case basis.⁷ A small portion of the band is allocated for unpaired operations on channels between 956.25625 and 956.44375 MHz (956 MHz band).⁸

4. On June 12, 2003, the Wireless Telecommunications Bureau (WTB) issued a license under call sign WPXU654 to McDonough for a channel at 952.56875 MHz to support one-way transmissions from vehicle transceiver units (VXUs) to meter transceiver units (MTUs) attached to customers' water meters.⁹ When the MTUs at McDonough's customer premises receive alert signals from a VXU, they respond by sending upstream meter readings in an unlicensed Part 15 band, 902-928 MHz.¹⁰ The MAS channel that WTB issued to McDonough is normally reserved for two-way MAS operations, but McDonough submitted a frequency engineering analysis demonstrating that all of the 956-MHz channels allocated for one-way operations in the vicinity were occupied.¹¹ McDonough did not require a waiver under those circumstances because section 101.147(x) of the Commission's rules provides that operations on frequencies other than those listed for the applicant's stated purpose may be authorized where it is shown that the objectives or requirements of the interference criteria prescribed in Section 101.105 could not otherwise be met to resolve interference problems.¹²

5. McDonough's MAS license for Station WPXU654 expired on June 12, 2013, after McDonough failed to file an application to renew that license. McDonough's city attorney later explained that WTB's renewal reminder letter was addressed to a former City administrator who had retired seven years earlier, and that the letter had not made its way to anybody else who was currently working for the City.¹³ McDonough filed an application for a new license to authorize the facilities formerly authorized under the license for Station WPXU654 on January 22, 2014.¹⁴ On May 15, 2014, it filed a request for a waiver of section 101.147(b) of the rules so that it can obtain authorization to continue operating its existing, installed MAS system at the frequency for which it is configured, 952.56875 MHz.¹⁵ The City filed a supplement to its waiver request on June 10, 2014.¹⁶ No oppositions or comments were filed.

⁵ See *MAS Report and Order*, 15 FCC Rcd at 11965 ¶ 20.

⁶ As of August 2014, ULS records indicate that there are 9,950 site based MAS licenses in this band. (ULS radio service code "MG" and "MW").

⁷ 47 C.F.R. § 101.147(b)(1)-(2).

⁸ 47 C.F.R. § 101.147(b)(1)-(2).

⁹ See File No. 0001325093 (filed May 27, 2003, granted June 12, 2003).

¹⁰ See File No. 0001325093, attachment to application describing Invensys Metering Systems. See also 47 C.F.R. § 15.249(a) (authorizing use of 902-928 MHz band for unlicensed operations).

¹¹ See File No. 0001325093, Letter from Sydney T. Black of Black & Associates to James Lee of the City of McDonough (Apr. 16, 2003).

¹² See 47 C.F.R. §§ 101.147(x), 101.105.

¹³ See File No. 0006111414 (Application), Request for Waiver (filed May 15, 2014) (Waiver Request).

¹⁴ See Application.

¹⁵ See Waiver Request.

¹⁶ File No. 0006111414, Supplement to Request for Waiver (filed June 10, 2014) (Supplement).

6. The City states that it has invested approximately \$876,000 in the installation of a radio-based meter reading system predicated upon the license that it received in 2003, Station WPXU654.¹⁷ The City has 4,930 meters that are connected to the meter reading system.¹⁸ It estimates that it would cost \$750,000 to \$1,000,000 (at an estimated cost of \$150-\$200 for each unit) to replace the existing units with units capable of transmitting on frequencies authorized for one-way use.¹⁹

7. Because the City's original license has expired, it requires a new license for one-way MAS operations in the 952 MHz band. As noted above, section 101.147(b) of the Commission's rules reserves that band for two-way MAS operations, but in 2003 McDonough submitted a frequency engineering analysis demonstrating that all of the 956-MHz channels allocated for one-way operations in the vicinity were occupied,²⁰ and obtained a license for a paired, two-way channel in the 902-928 MHz band under a section 101.147(x) exception.²¹ In the meantime, however, a one-way channel in the 956 MHz band has become available in the McDonough area, so that the City would no longer qualify for a section 101.147(x) exception. Absent a waiver, therefore, section 101.147(b) would require that any applicant for one-way MAS operation in that vicinity seek a license in the 956 MHz band.²²

III. DISCUSSION

8. Section 1.925(b)(3) of the Commission's Rules requires parties seeking a waiver to demonstrate that:

(i) The underlying purpose of the rule(s) would not be served or would be frustrated by application to the instant case, and that a grant of the requested waiver would be in the public interest; or

(ii) In view of unique or unusual factual circumstances of the instant case, application of the rule(s) would be inequitable, unduly burdensome or contrary to the public interest, or the applicant has no reasonable alternative.

9. In this case, we conclude that McDonough has justified a waiver of the rules under the second prong of the waiver standard. The City's meter reporting equipment is configured for only one MAS frequency, 952.56875 MHz, and the City estimates that replacing that equipment at current prices would cost between \$750,000 and \$1,000,000.²³ Moreover, since McDonough was previously authorized to operate on the frequency, allowing McDonough to continue operating its one-way equipment in spectrum designated for two-way operations would not have any preclusive effect on two-way operations. While we do not condone or excuse the City's failure to renew its license, under the unusual circumstances of this case, we believe it would be inequitable and unduly burdensome to require McDonough to replace its water meter equipment to operate on a new frequency. Under these circumstances, therefore, requiring the City to invest a million dollars in new equipment would produce no benefit to other potential spectrum users or to the City itself. For those reasons, we conclude that

¹⁷ See Supplement at 1.

¹⁸ See Supplement at 2. While the Supplement states that the meters are attached to transmitters that operate on 952.56875 MHz band, based on the description submitted with McDonough's original application, it appears that the units attached to the meters receive in the 952 MHz band and transmit on Part 15 frequencies. Compare Supplement at 3 and File No. 0001325093, attachment to application describing Invensys Metering Systems.

¹⁹ Supplement at 3.

²⁰ See File No. 0001325093, Letter from Sydney T. Black of Black & Associates to James Lee of the City of McDonough, April 16, 2003.

²¹ See 47 C.F.R. §§ 101.147(x), 101.105.

²² See 47 C.F.R. § 101.147(b)(1).

²³ See Supplement at 3.

McDonough has justified a waiver of section 101.147(b) of the Commission's rules to allow it to obtain a replacement license for the same MAS channel for which its existing, installed equipment is configured, 952.56875 MHz.

IV. CONCLUSION AND ORDERING CLAUSES

10. McDonough has justified a waiver of the Commission's rules to allow it to obtain a replacement MAS license identical to its previous expired license. We therefore grant its Waiver Request and direct processing of its application.

11. ACCORDINGLY, IT IS ORDERED that pursuant to sections 4(i) and 309 of the Communications Act of 1934, as amended, 47 U.S.C. §§ 154(i), 309, and section 1.925 of the Commission's Rules, 47 C.F.R. § 1.925, that the waiver request filed by the City of McDonough on May 15, 2014, as supplemented on June 10, 2014, IS GRANTED.

12. IT IS FURTHER ORDERED that the licensing staff of the Broadband Division SHALL PROCESS the pending application of City of McDonough on January 22, 2014, as amended on May 15, 2014 and June 10, 2014 (File No. 0006111414) in accordance with this *Memorandum Opinion and Order* and the applicable Commission rules.

13. This action is taken under delegated authority pursuant to sections 0.131 and 0.331 of the Commission's Rules, 47 C.F.R. §§ 0.131, 0.331.

FEDERAL COMMUNICATIONS COMMISSION

John J. Schauble
Deputy Chief, Broadband Division
Wireless Telecommunications Bureau